

STATE OF MICHIGAN



84TH DISTRICT COURT

MARY G. SORGER
COURT REPORTER

WEXFORD COUNTY

DAVID A. HOGG
DISTRICT JUDGE

BRENDA L. LEWIS
COURT ADMINISTRATOR/
MAGISTRATE

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AUDREY D. VAN ALST
ATTORNEY MAGISTRATE

July 28, 2009

Mr. Corbin R. Davis
Supreme Court Clerk
P.O. Box 30052
Lansing, MI 48909

Re: Administrative File No. 2009-11

Dear Mr. Davis:

I assume that the intent of the proposed amendment of MCR 6.302(C)(1) is to require that plea discussions, *in which the judge is a participant*, be placed on the record in open court. I fully support this change for the reasons stated in my comments to ADM 2006-16. As written, however, proposed MCR 6.302(C)(1) would seem to cover discussions between counsel, not involving the court, which should obviously be conducted privately.

I oppose the changes proposed for MCR 6.302(C)(3)(b) and MCR 6.310(B)(2)(a) by Justices Young and Corrigan that would eliminate an unfulfilled "sentence recommendation" as a basis to withdraw a guilty plea. The process of presenting a sentence recommendation, rather than a sentence agreement, is a device that intentionally obscures rational decision making. Justice Young suggests there is no logical reason to permit the defendant to rescind a valid plea when the court is unwilling to follow a nonbinding recommendation. I say there is no logical reason to allow a nonbinding recommendation to become a basis for the waiver of constitutional rights, because it provides no benefit to the defendant unless it is fulfilled.

Very truly yours,

A handwritten signature in black ink, appearing to read "David A. Hogg".

Hon. David A. Hogg
Chief Judge, 84th District Court

